IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9529 OF 2003

Govind Bandu Kodale ..Petitioner.
Vs.
Union of India & Ors. ..
Respondents.

....

Mr. N.M. Ganguli for the Petitioner.
Mr. D.A. Dubey for the Respondents.

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CORAM: KSHITIJ R. VYAS, C.J. &
DR.D.Y.CHANDRACHUD, J.

17th April, 2006.

P.C. (Per **DR. D.Y. CHANDRACHUD, J.**) :

1. The Petitioner was enrolled in the Maratha Light Infantry on 12th September, 1962. He came to be released from service with effect from 15th May, 1973 and it may be noted that the case of the Petitioner himself is that he had rendered service of 10 years and 8 months as on the date of his release. The request of the Petitioner for the grant of pension was replied to on 9th April, 2000 and the Petitioner was informed that the minimum qualifying service required for pension was 15 years which the Petitioner had not completed. The contention of the Petitioner is that under the Central Civil Services Pension Rules an employee who has put in

10 or more years of service is eligible for pension and that the Petitioner is accordingly entitled to pension under the said Rules.

2. A reply has been filed in these proceedings on behalf of the Respondents in which it has been stated that the Petitioner had sought a premature discharge on account of his domestic problem and that he was accordingly discharged from service with effect from 15th May, 1973 under item III(iv) of Rule 13(3) of the Army Rules 1954 on compassionate grounds at his own request. It has been stated that as per Rule 132 of the Pension Regulations for Army, 1961 (Part 1), the minimum period of qualifying service required for earning service pension is 15 years. The total qualifying service of the Petitioner after deducting 71 days of non-qualifying service work out to less than 15 years and was 10 years and 175 days. The Petitioner was, therefore, not granted pension since he was not eligible to receive pension, but he was granted service gratuity at the time of discharge.

3. From a perusal of the affidavit in reply, it is evident that the Petitioner does not meet the requirements of the Pension Regulations applicable to the Army since Rule 132, it is undisputed

provides for a minimum service of 15 years for eligibility to receive pension. The Petitioner cannot place reliance on the Central Civil Services Pension Rules which are not applicable to a member of armed forces such as the Petitioner. We, therefore, find no merit in the Petition which is accordingly dismissed.

CHIEF JUSTICE

(DR. D.Y. CHANDRACHUD, J.)